

REMARKS

Claims 1, 8, 15, 19, and 24 have been amended by this response. Claims 1-26 remain pending in this application. Claim 24 has been amended to correct the inadvertent typographical error and to demonstrate that claim 24 is, in fact, meant to depend from claim 23 as correctly noted by the Examiner.

Claim Rejections under 35 U.S.C. § 102(b)

Claims 1, 8-10, 15, 19, and 23-25 have been rejected, in the Office Action dated July 25, 2006, under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 6,203,428 (Giobbi). The Giobbi disclosure is directed towards an electronic video gaming machine for playing multiple games substantially at the same time is set forth. The gaming machine includes a plurality of game boards arranged in a stack and displayed on a touch screen. The stack includes a top end and a bottom end and each game board has a face on which a single game is displayed. A plurality of game control buttons and game control indicators are provided for operating the game and selecting game elements. The face of any game board is viewable by the player by touching the touch screen at a location of the game board to be viewed. After touching the game board, the game board slides out from the stack to expose its face. *See* Giobbi, Abstract.

Giobbi teaches that to control the basic operation of the game, the video screen 12 may be a touch screen for additionally displaying appropriate game control buttons or indicators 32, such as a "deal" indicator 34, a "draw" indicator 36, a "speed" indicator 38, a "multi-bet" indicator 40, a "bet one" indicator 42, and a "max bet" indicator 44. Giobbi, col. 3, lls. 37-42. The "play-mode" display 16 further includes a stack tab 82 for selecting the number of game boards 20 to be played. The stack tab 82 is movable up and down the stack 18 either via the touch screen 12 or by the "up-arrow" button 60 or "down-arrow" button 62 located on the deck 70 of the machine 10. Giobbi, col. 4, lls. 1-2. If the player uses the touch screen 12 to move the stack tab 82, the player touches a finger to the touch screen 12 at the stack tab 82 and drags the finger along the touch screen 12 to select a desired number of game boards 20. To maintain a three-dimensional look, the stack tab 82 varies in size as it is moved along the stack 18. In particular, the stack tab 82 appears larger the closer it is to the top end 28 relative to the bottom end 26 of the stack 18. Giobbi, col. 4, lls. 8-15.

Nowhere does Giobbi disclose, teach, or suggest displaying a simulated amusement game controller or a simulated joystick, as specifically claimed by the Applicant in claims 1, 8, 15, 19, and 26. As detailed by the Applicant, the claimed invention simulates a controller such that the visual representation of a controller within the dynamic control area mimics the behavior, in terms of responsiveness and appearance, of a true, three-dimensional controller. *See* Applicant's Spec., p. 10, lls. 1-5. The use of a simulated controller allows the approximation of standard amusement game controls in situations where standard amusement game controls may not be practical. *See* Applicant's Spec., p. 7, lls. 9-11.

Not only does Giobbi fail disclose simulating an amusement game controller or a joystick, but Giobbi also fails to disclose mimicking the responsiveness and appearance of a true, three-dimensional controller. Giobbi only discloses using a touch screen to allow the selection of stack tabs 82 or for displaying appropriate game control buttons or indicators 32. Nowhere does Giobbi disclose, teach, or suggest displaying a two-dimensional representation of an entire amusement game controller or joystick. Further, Giobbi does not disclose mimicking the responsiveness and appearance of the actual three-dimensional game controller with the two-dimensional simulated game controller. As the Examiner states in the office action, "Giobbi excludes the use of input devices such as joysticks and trackballs." *See* Office Action July 25, 2006, p. 5. Applicant agrees and notes that the reason Giobbi excludes such input devices is because Giobbi does not disclose simulating game controllers in any way.

Thus, claims 1, 8, 15, 19, and 26 are not anticipated by Giobbi and are allowable for at least the above reasons. Claims 9-10 and 23-25 depend from claims 8 and 19, respectively, and are allowable for at least the same reasons.

Claim Rejections under 35 U.S.C. § 103

Claims 3-7, 11-14, 16-18, 20-22, and 26 have been rejected, in the Office Action dated July 25, 2006, under 35 U.S.C. § 103 as allegedly being unpatentable over Giobbi in view of U.S. Patent No. 5,882,258 (Kelly). Kelly discloses that player inputs typically include game commands provided by controlling devices 16 such as buttons, mouse, dials, joystick controls, touch screen, track ball, speech input through a microphone, etc. For example, the player can move a track ball to move a pointer to a card image on the screen, and press a button to select the card. The user input can provide a particular game command to the game processor 12, and the

game processor interprets the commands and influences game states and game events in the game process accordingly. See Kelly, col. 4, l. 64 – col. 5, l. 6.

The Office Action alleges that “it would have been obvious to one of ordinary skill to provide game control input devices such as trackballs and joysticks, as taught by Kelly, on a touch screen interface, as taught by Giobbi.” See Office Action July 25, 2006, p. 5. However, as discussed above, Giobbi in no way discloses, teaches, or suggests simulating a game controller, as specifically claimed by the Applicant. Kelly does not disclose simulating the disclosed controlling devices 16. As such, Kelly does not overcome the deficiencies of Giobbi. Thus, neither Giobbi, Kelly, nor combination thereof disclose simulating a game controller or a joystick, as specifically claimed by the Applicant.

Thus, claims 1, 8, 15, 19, and 26 are not anticipated by Giobbi nor unpatentable over Giobbi in view of Kelly. As such, claims 1, 8, 15, 19, and 26 are allowable for at least the above reasons. Claims 2-7, 9-14, 16-18, and 20-25 depend from claims 1, 8, 15, and 19, respectively, and are allowable for at least the same reasons.

Conclusion

In view of the above amendments and remarks, Applicant believes the pending application is in condition for allowance. If there are any matters which may be resolved or clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at the number indicated. Applicant believes that no fee is due with respect to this Amendment and Response, however, should any additional fees be required (except for payment of the issue fee), the Commissioner is authorized to deduct the fees from Jenkins & Gilchrist, P.C. Deposit Account No. 10-0447, Order No. 47089-00050USPT. A duplicate copy of this Amendment and Response is enclosed for that purpose.

Dated: October 25, 2006

Respectfully submitted,

By 

Daniel J. Burnham

Registration No.: 39,618

JENKENS & GILCHRIST, A PROFESSIONAL
CORPORATION

225 W. Washington, Ste. 2600

Chicago, Illinois 60606-3418

(312) 425-3900

Attorneys For Applicant